

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

2004 JUL -9 P 12:53

WILLIAM R. MITCHELL )	U.S. DISTRICT COURT
Petitioner, ) DISTRICT OF MASS.	
)	Civil Action No. 04-10844-MLW
v. )	
)	
LUIS SPENCER )	
Respondent. )	

**RESPONDENT'S SUPPLEMENTAL APPENDIX TO HIS MOTION**  
**TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS**

Now comes the respondent in the above-captioned case and hereby files the following documents in support of his motion to dismiss the petition for writ of habeas corpus:

State court docket sheets pp. 1-7

Respectfully submitted,

THOMAS F. REILLY  
Attorney General

*Susanne Reardon*  
Susanne G. Reardon, BBO # 561669  
Assistant Attorney General  
Criminal Bureau  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 727-2200, ext. 2832

Date: July 8, 2004

CERTIFICATE OF SERVICE

I hereby certify that true copies of the above documents were served on William R. Mitchell, pro se, P.O. Box 43, Norfolk, MA 02056 by first class mail, postage prepaid, on July 8, 2004.

Susanne Reardon

Susanne G. Reardon  
BBO # 561669  
Assistant Attorney General  
Criminal Bureau  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 727-2200, ext. 2832

			1991
NOV. 20	41	Upon presentation, F. P. Marchette, Esq. Allowed to withdraw. (Brady,J.)	
Nov. 21		Notice of Assignment of Counsel 0071160- C.P.C.S. appointed. (Brady,J.)	
Dec. 20	42	Transcript forms sent to F. P. Marchetti, Esq.	
		Victim/Witness Assessment \$50.00 Paid.	
May 12	45	9 of 1992	
Nov 5	466	David Hoose has been assigned to case, notice from C.P.C.S, Boston.	
Nov 6	47	Notice to M. Parziale to prepare transcripts, (Nov. 4 to Nov. 14, 1991)	
May 12	44	Notice to M. Parziale to prepare transcripts.	
May 12	45	Certificate of Assistant Clerk. to perpare transcripts.	
Feb. 18	48	Transcripts received (3 volumes, Nov. 4, 6, 7, 1991) from K. Gordon, Stenographer.	
Mar. 18	49	Certificate of Assistant Clerk to prepare transcripts.	
May 12	50	Transcripts received (4 volumes Nov. 5, 12, 13, 14, 1991) from M. Parziale, stenographer	
May 12	51	Certificate Re; Receipt of Transcripts, from D. Duncan, A.D.A. (7 volumes)	
May 27	52	Certificate Re; Receipt of Transcripts, from David Hoose, Esq., (7 volumes)	
Jun. 4	53	Notice of assignment of Counsel C 1062312-6 John Thompson, Esq., appointed.	
Aug 12	54	Notice of appearance, John M. Thompson Esq.	
1995		Filed 07/09/2004	
March 29	55	Notice of Assembly of Records and Transcripts transmitted to the Appeals Court.	
March 29		Rescript dated February 28, 1995 from the Appeals Court---Ordered---Judgment affirmed.	
1997			
JUL 21	56	Document 7 Defendant's Motion for A New Trial, Pursuant to Mass. R. Crim. P. Rule 30 (b), Affidavit and Memorandum filed by Pro Se. Copy to Brady,J. on 7/23/97 DENIED.	
AUG 25	57	Memorandum of Decision and Order on Defendant's Motion for a New Trial DENIED.	
Oct 22	58	Petition for Brady,J.	
Oct 22	58	Defendant's Motion for Leave to Late File Notice of Appeal filed by Pro Se.	
23		Copy to Bohn, J. on 10/22/97	
Oct 31	59	Motion 58 Allowed. Bohn, J. Copy to Pro Se on 10/27/97	
Oct 31	60	Defendant's Notice of Appeal filed. Copy to R. Murphy Asst. Clerk on 10/27/97	
		Notice of Assembly of Record to the Appeals Court re: Denial of Motion for a New Trial	
Nov 19	61	Defendant's Motion for Reconsideration, Memorandum filed by pro se.	
24		Copy to Brady,J. on 11/12/97	
		Motion 61 upon review denied. Brady, J. See Endorsement. Copy to W. Mitchell pro se on 12/3/97.	
		Case 1:04-cv-10844-MLW	
		Defendant's Notice of Appeal filed. Copy to Brady,J. on 12/24/97	
		Decided 10/22/97	

12/24/98  
CITY OF LOS BORGES REACHES AGREEMENT TO STC

COMMONWEALTH VS. WILLIAM R. MITCHELL

No. CR. 17367

30 (b) Filed.  
....., pursuant to Mass. R. Crim. P. Rule  
COMMONWEALTH OF MASSACHUSETTS ESSEX, SS. SUPERIOR COURT CRIMINAL DOCKET

66	Defendant's Renewed Motion for an Evidentiary Hearing filed.
67	Defendant's Renewed Motion for Appointment of counsel filed.
68	Defendant's Affidavit in support of Amended Motion for a New Trial, pursuant to Mass. R. Crim. P. Rule 30 (b)

Jul 2	Pleadings #63 through 69 sent to Patrick Brady J. on 6/15/98 Motion #64 upon review, denied. Patrick Brady J.Copy to pro se on 7/8/98
Motion #65 Upon Review, denied.	Patrick Brady J.Copy to pro se on 7/8/98
Motion#66 Denied.	Patrick Brady J.Copy to pro se on 7/8/98
Motion #67 Denied.	Patrick Brady J. Copy to pro se on 7/8/98
Jul 30	7/70 defendant's Notice of Appeal filed by pro se. Copy to Patrick Brady J. on 8/4/98.
Sept 14	71 Notice from the Appeals Court re: Stay is vacated. The appeal from the denial of appellant's motion for a New trial is consolidated with pending appeal without necessity of further assembly of the record. The Appellant's consolidated brief and appendix is to be filed with the Appeals Court on or before 10/13/98. Copies of updated trial court docket sheets mailed to Appeals Court. Notice from the Appeals Court dated 10/28/98 re: Motion to file oversize brief - DENIED (Jacobs, J.).
Oct 29	72
2000	

MAJ 25	73	REQUEST FOR AN AFFIDAVIT OF INDIGENCY FILED. COPY OF FORM MAILED TO DEFENDANT ON JUNE 1, 2000. AFFIDAVIT of Indigency and Request for Waiver, Substitution or State Payment of Fees and Costs Filed.
June 12	74	
Sept. 18		SEE COMPUTER

**Commonwealth of Massachusetts  
ESSEX SUPERIOR COURT  
Case Summary  
Criminal Docket**

**Commonwealth v Mitchell, William R**

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Details for Docket: ESCR1990-17367

**Case Information**

<b>Docket Number:</b>	ESCR1990-17367	<b>Caption:</b>	Commonwealth v Mitchell William R
<b>Entry Date:</b>	05/23/1990	<b>Case Status:</b>	CtRm 1 (Salem)
<b>Status Date:</b>	04/14/2003	<b>Session:</b>	Disposed (appeal denied)
<b>Lead Case:</b>	NA	<b>Deadline Status:</b>	
<b>Trial Deadline:</b>		<b>Jury Trial:</b>	NO

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**Parties Involved**

2 Parties Involved in Docket: ESCR1990-17367

**Party Involved:** Defendant

**Last Name:** Mitchell **First Name:** William R

**Address:**

**City:**

**Zip Code:**

**Telephone:**

**Party Involved:** Plaintiff

**Last Name:** Commonwealth **First Name:**

**Address:**

**City:**

**Zip Code:**

**Telephone:**

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**Attorneys Involved**

2 Attorneys Involved for Docket: ESCR1990-17367

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<b>Attorney Involved:</b>		<b>Firm Name:</b>	
<b>Last Name:</b>	Fielding	<b>First Name:</b>	Jean M
<b>Address:</b>	PO Box 519	<b>Address:</b>	
<b>City:</b>	Greenfield	<b>State:</b>	MA
<b>Zip Code:</b>	01302	<b>Zip Ext:</b>	
<b>Telephone:</b>	413-773-5494	<b>Tel Ext:</b>	
<b>Fascimile:</b>	413-773-5494	<b>Representing:</b>	Mitchell, William R (Defendant)

<b>Attorney Involved:</b>		<b>Firm Name:</b>	
<b>Last Name:</b>	Schubert	<b>First Name:</b>	Greg T
<b>Address:</b>	1365 Main Street	<b>Address:</b>	
<b>City:</b>	Springfield	<b>State:</b>	MA
<b>Zip Code:</b>	01103	<b>Zip Ext:</b>	
<b>Telephone:</b>	413-746-1313	<b>Tel Ext:</b>	
<b>Fascimile:</b>	413-746-3102	<b>Representing:</b>	Mitchell, William R (Defendant)

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## Calendar Events

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2 Calendar Events for Docket: ESCR1990-17367

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	06/25/2001	09:00	Hearing: Motion	1	Event not held--scheduled for another date
2	07/20/2001	09:00	Hearing: Motion	1	Event held as scheduled

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## Full Docket Entries

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86 Docket Entries for Docket: ESCR1990-17367

Entry Date:	Paper No:	Docket Entry:
05/23/1990	1	Indictment returned
01/14/1991		Re Offense #1: Guilty Verdict
09/18/2000	75	Motion for new trial by Deft. Affidavit and Memorandum in Support of filed.
09/18/2000	76	Motion by Deft: for Evidentiary Hearing.
09/18/2000	77	Motion for appointment of counsel filed.
10/24/2000		Pleading #74-Denied without prejudice: Applicant has failed to state

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10/24/2000 reasons why he seeks DNA testing and/or why such testing is  
10/24/2000 reasonably necessary to assure him as effective an appeal or  
10/24/2000 post-conviction proceeding as he would have if he were financially  
10/24/2000 able to pay for such testing. See G.L. C. 261 Sec 27C(4) Commonwealth  
10/24/2000 v. Lockley. Notice sent 10/26/00  
10/27/2000 78 ORDERED: Commonwealth may have until 11/29/00, to file a responsive  
10/27/2000 78 brief in opposition to defendant's motion for new trial. Counsel  
10/27/2000 78 should filed the original brief with the Essex Clerk's Office and  
10/27/2000 78 send a working copy to me to the court which I am then sitting.  
10/27/2000 78 (Patrick,F. Brady,J.) Copy to Pro-See and E.Graddon, ADA on 11/01/00  
11/06/2000 79 Motion by Deft: Motion for Reconsideration filed. Copy of Pleadings  
11/06/2000 79 #'s 74 and 75 sent to Rup,J., in Hampshire County.  
11/14/2000 Motion #79 At the Time of the Defendant's Motion came before me, I  
11/14/2000 was not made aware that he sought to waive the cost that would be  
11/14/2000 assessed against him by G.L.C. 22E sec. 4 (6). Satisfied that the  
11/14/2000 Defendant is indigent, as Defined by G.L.C. 261 sec. 27A, His motion  
11/14/2000 is Allowed and the cost of preparing, Collecting and Processing the  
11/14/2000 DNA Sample. The Defendant must Provide shall be paid by the  
11/14/2000 Commonwealth, all Waived. (Rup, J.)  
12/12/2000 80 Commonwealth's Motion to File Late Filed Copy to Judge Brady.  
12/12/2000 81 Commonwealth's Opposition to Defendant's September, 2000 New Trial  
12/12/2000 81 Motion Filed Copy to Brady, J.  
12/28/2000 Motion #76 : The issue presented by the Defendant does not require an  
12/28/2000 evidentiary hearing. When Counsel for Defendant has been appointed  
12/28/2000 he/she and the prosecution shall contact me to schedule a  
12/28/2000 non-evidentiary hearing (Brady,J.)  
12/28/2000 Motion (P#77) Upon Review allowed The clerk shall refer the case to  
12/28/2000 CPCs for reference to counsel. When Counsel has been appointed he/she  
12/28/2000 and the prosecution shall contact me to schedule a non-evidentiary  
12/28/2000 hearing (Brady,J.)  
01/02/2001 82 Motion by Deft: for Leave to Expand Record  
01/02/2001 83 Motion by Deft: for Leave to Reply to the Commonwealth's Memorandum  
01/02/2001 83 in Opposition to the Defendant's Motion for New Trial and Memorandum  
01/02/2001 83 in Support of filed  
01/02/2001 84 Motion by Deft: for the Return of Property filed and ALLOWED  
01/02/2001 84 (Borenstein,J.)  
01/12/2001 85 Notice of Assignment of Counsel C2624393-2 Jean M Fielding, Esq., for  
01/12/2001 85 Screening  
02/06/2001 Motion #82 - ALLOWED. (Brady, J.)  
02/06/2001 Motion #83 - ALLOWED. (Brady, J.)  
02/28/2001 86 Notice of Assignment of Counsel c2624591-4. Greg Shubert, Esq.

02/28/2001 86 Appointed.  
03/07/2001 87 Appearance of Counsel - Atty: Greg T Schubert appears for the  
03/07/2001 87 Defendant.  
04/13/2001 88 Supplement To Defendant's Memorandum Of Law In support Of Motion For  
04/13/2001 88 A New Trial - Filed (copies of motion and docket sheets to Judge)  
05/25/2001 89 Supplement To Defendant's Memorandum Of Law In Support Of Motion For  
05/25/2001 89 A New Trial and docket sheets to Judge Peter Brady.  
06/15/2001 90 Habeas corpus for Deft at Norfolk MCI for Monday, June 25, 2001, at  
06/15/2001 90 9:00A.M. for Motion for New Trial in Norfolk Superior Court - Ct.  
06/15/2001 90 room #3, Judge Patrick Brady's session. Requested by: Shirley Cahill,  
06/15/2001 90 District Attorney's Office. ADA:Appeal Division, Eileen Graydon  
06/27/2001 91 Letter from District Attorney's Office Re: Rescheduling  
06/27/2001 91 non-evidentiary hearing on defendant's new trial motion - Filed.  
07/09/2001 92 Habeas corpus for Deft at Norfolk MCI for July 20, 2001, at 12:00Noon  
07/09/2001 92 for Hearing for a Motion for New Trial in Norfolk Superior Ct. - Ct.  
07/09/2001 92 Room 3, Judge Patrick Brady's session. Requested by:Shirley Cahill,  
07/09/2001 92 District Attorney's Office  
07/20/2001 93 Motion Commonwealth's Opposition To Defendant's Supplement To His  
07/20/2001 93 Memorandum In Support Of His September 2000 New Trial Motion - Filed  
07/20/2001 93 in open Court.  
08/07/2001 94 MEMORANDUM & ORDER: On Defendant's September 18, 2000 Motion For A  
08/07/2001 94 New Trial - ORDER DENIED (Patrick F.Brady, Justice of the Superior  
08/07/2001 94 Court)  
08/09/2001 95 Commonwealth files Correspondence letter to Judge Patrick F. Brady.  
08/09/2001 95 (copy and docket sheets to Judge Patrick F. Brady)  
08/14/2001 96 Motion For Hearing Transcript and Affidavit - Filed.  
08/16/2001 Motion #96 - ALLOWED. (Brady, J.) copy sent to Grayson Court Reporter  
09/04/2001 97 Defendant's Notice Of Appeal - Filed.  
01/16/2002 98 Letter from Defendant Re Appeal -filed.  
02/27/2002 Transcript of testimony received 1 volumes dated 7/20/01 from court  
02/27/2002 reporter, Grayson, Gayle  
03/18/2002 99 Notice of assembly of record; mailed to Appeals Court per Rule 9(d)  
04/04/2003 100 Rescript received from Appeals Court; (Memorandum And Order Pursuant  
04/04/2003 100 To Rule 1:28) Order denying motion for new trial affirmed.  
04/04/2003 100 (Armstrong, CJ., Gelinas & Kantrowitz, JJ.)  
04/14/2003 101 Rescript received from Appeals Court; judgment AFFIRMED Order denying  
04/14/2003 101 motion for new trial affirmed.(Armstrong, CJ., Gelinas & Kantrowitz,  
04/14/2003 101 JJ.)

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## Charges

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1 Charges for Docket: ESCR1990-17367

No.	Charge Description:	Indictment:	Status:
1	Murder, 2d degree	ESCR1990-17367	Guilty verdict

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